

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Cassandra Fenkel	Team: Squad #14	CCRB Case #: 201707238	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Sunday, 08/27/2017 1:57 AM	Location of Incident: Lott Street and Albemarle Road	Precinct: 67	18 Mo. SOL 2/27/2019	EO SOL 2/27/2019	
Date/Time CV Reported Mon, 08/28/2017 11:45 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 09/05/2017 11:10 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Miguel Vanbrakle	28743	955616	067 PCT
2. SGT Alan Chau	01257	940986	067 PCT
3. An officer			067 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Jose Villafane	01275	940837	067 PCT
2. POM Gregory Vasquez	21626	951369	067 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Alan Chau	Force: Sergeant Alan Chau used physical force against § 87(2)(b)	
B.POM Miguel Vanbrakle	Force: Police Officer Miguel Vanbrakle used physical force against § 87(2)(b)	
C. An officer	Force: An officer used physical force against § 87(2)(b)	

Case Summary

On August 28, 2017, § 87(2)(b) called the IAB Command Center and filed this complaint, which was received at the CCRB on September 5, 2017.

On August 27, 2017, at 1:57 a.m., § 87(2)(b) was driving in the vicinity of Lott Street and Albemarle Road in Brooklyn, when he was stopped by Sgt. Alan Chau and PO Miguel Vanbrakle of the 67th Precinct. Sgt. Chau, PO Vanbrakle and an unidentified officer allegedly pulled § 87(2)(b) from his vehicle and punched him in the face three times (**Allegation A – B: Force,** § 87(2)(g) **Allegation C – Force:** § 87(2)(g)).

§ 87(2)(b) was arrested for driving while intoxicated, failure to stop at a stop sign, and drinking alcohol in a motor vehicle (Board Review 01). § 87(2)(b)'s criminal case remains open with a next scheduled court date of § 87(2)(b) (Board Review 02).

There is no video evidence in this case.

Findings and Recommendations

Allegation A – Force: Sergeant Alan Chau used physical force against § 87(2)(b)

Allegation B – Force: Police Officer Miguel Vanbrakle used physical force against § 87(2)(b)

Allegation C – Force: An officer used physical force against § 87(2)(b)

§ 87(2)(b) (Board Review 03) testified that he was driving from a bar toward the intersection of Lott Street and Albemarle Road. § 87(2)(b) consumed one beer at the bar and had an empty Corona bottle in the cup holder of his center console. § 87(2)(b) observed an unmarked vehicle driving the wrong way down Albemarle Road and yelled, “Wrong way, asshole!” Sgt. Chau and PO Vanbrakle exited from this vehicle and approached § 87(2)(b)'s vehicle. Sgt. Chau opened § 87(2)(b)'s front driver's side door and he and PO Vanbrakle allegedly pulled § 87(2)(b) out of his vehicle. § 87(2)(b) asked what the officers were doing. Sgt. Chau told § 87(2)(b) that he failed to stop at a stop sign. An unidentified officer, described only as a white man, had arrived on scene, though § 87(2)(b) was unaware as to where this officer came from. Sgt. Chau, PO Vanbrakle, and the unidentified officer allegedly each punched § 87(2)(b)'s left cheek once in quick succession, causing a tooth on the upper left side of § 87(2)(b)'s mouth to be loosened.

§ 87(2)(b) testified that he did not request medical attention while in police custody because he did not want to delay his release. He instead sought treatment at his private doctor the following day. § 87(2)(b)'s medical records from the office of § 87(2)(b) (Board Review 04) document that he complained of having a loose tooth on his upper left jaw. § 87(2)(b) did not specify how or when he sustained this injury. § 87(2)(b) was prescribed Ibuprofen for jaw pain and referred to an orthodontist.

§ 87(2)(b) (Board Review 05, Board Review 06), who was identified as a friend and witness to this incident by § 87(2)(b) testified that from across the street, he saw Sgt. Chau and PO Vanbrakle approach § 87(2)(b)'s vehicle and drag him out of it. Sgt. Chau, PO Vanbrakle, and the unidentified officer, described only as a white man, allegedly punched § 87(2)(b) in the face numerous times.

Sgt. Chau (Board Review 07) testified that § 87(2)(b) was pulled over for driving through a stop sign, at which point an open container of alcohol was observed in plain view. § 87(2)(b) exited his vehicle on his own. Sgt. Chau denied that he and PO Vanbrakle pulled him out of his vehicle. Sgt. Chau ordered § 87(2)(b) to put his hands behind his back, but § 87(2)(b) instead raised his hands in the air. Sgt. Chau and PO Vanbrakle each grabbed one of § 87(2)(b)

§ 87(2)(b)'s arms, pulled them behind his back, and placed him in handcuffs without additional incident. Aside from pulling § 87(2)(b)'s arms behind his back, no other force was used. Sgt. Chau denied that he and PO Vanbrakle punched § 87(2)(b) and said that no other officers were present during this aspect of the incident.

PO Vanbrakle's statement (Board Review 08) was generally consistent with Sgt. Chau's. He testified that § 87(2)(b) did not initially cooperate with orders to place his hands behind his back, at which point the officers pulled his arms behind his back. No other officers were present, and no other physical force was used against § 87(2)(b).

PO Jose Villafane (Board Review 09) and PO Gregory Vasquez, both of the 67th Precinct, (Board Review 10) testified that they responded to a radio run for an officer in need of assistance. Upon arrival, PO Villafane and PO Vasquez observed § 87(2)(b) being placed inside a marked patrol car. PO Villafane testified that Sgt. Chau and PO Vanbrakle were the only other officers on scene. PO Vasquez testified that six other officers were present when he arrived on scene, though he could not recall who they were. There did not appear to be any issue with § 87(2)(b) and PO Villafane and PO Vasquez left the location within five minutes.

The 67th Precinct had no record of any Threat, Resistance, or Injury Worksheet prepared in regards to this incident (Board Review § 87(2)(b)'s arrest report noted that no physical force was used during his arrest. § 87(2)(b)'s Chemical Analysis Test (Board Review 12) was administered at the 7th Precinct nearly two hours after the time of his arrest. At that time, § 87(2)(b)'s blood alcohol content was documented as .190%.

Event documents (Board Review 16) and the associated police radio communications (Board Review 17) did not identify any other officers that responded to this incident.

Though § 87(2)(b)'s medical records document that he complained of a loosened tooth, they do not specify when or how this injury occurred, and he said he sustained no additional injury as a result of the alleged punches. § 87(2)(b), § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

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§ 87(2)(b)

§ 87(2)(b).

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (Board Review 13).
- Sgt. Chau has been a member-of-the-service for 12 years and has been a subject in eight CCRB complaints and 19 allegations, none of which were substantiated. § 87(2)(g)
- PO Vanbrakle has been a member-of-the-service for four years and has been a subject in seven CCRB complaints and 19 allegations, none of which were substantiated. PO

§ 87(2)(g)

Mediation, Civil and Criminal Histories

- This complaint was not suitable for mediation.

- As of March 30, 2018, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards to this complaint (Board Review 14).
- According to the Office of Court Administration (OCA), § 87(2)(b) has no history of convictions in New York City (Board Review 15).

Squad No.: #14

Investigator: _____
Signature Print Title & Name Date

Squad Leader: _____
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date